IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY

THURSDAY, THE 25TH OCTOBER 2007 / 3RD KARTHIKA 1929

Crl.Rev.Pet.No. 139 of 2000

CRA.190/1997 OF II ADDL.SESSIONS COURT, ERNAKULAM
ST.1772/1995 OF JUDL. MAGISTRATE OF FIRST CLASS-I, KOCHI

REVN. PETITIONER/APPELLANT/ACCUSED

A.B. GEORGE,
S/O. BAPPU,
ARAKKAL HOUSE, WARD V,
KUMBALANGI SOUTH, KOCHI TALUK.

BY ADV. SRI.VIJAYAN MANNALY

RESPONDENTS/RESPONDENTS/COMPLAINANT:

1. **C.G. JAYARAJ, S/O. GOVINDAN,**
   CHANDRASSERIL HOUSE,
   KUMBALANGI VILLAGE, KOCHI TALUK.

2. **THE STATE OF KERALA, REP. BY**
   PUBLIC PROSECUTOR,
   HIGH COURT OF KERALA, ERNAKULAM.

ADV. SRI.JOSEPH EDAKKATT FOR R1
PUBLIC PROSECUTOR SRI. K.C. SANTHOSHKUMAR

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON 25/10/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

J.B.KOSHY, J.

Crl.R.P.No.139 OF 2000

Dated 25th October, 2007

ORDER

First respondent filed a complaint that the revision petitioner borrowed Rs.40,000/= and issued a cheque dated 14/8/95 drawn on the State Bank of Travancore, Pazhangadu Branch in discharge of that debt, but, when the cheque was presented for collection, it was returned as dishonoured for insufficiency of funds. After sending notice and complying with all legal formalities, since the amount was not paid, criminal complaint was filed under Section138 of the Negotiable Instruments Act. Execution of the cheque, dishonour of the cheque etc. are not disputed. The only contention raised by the accused in 313 statement was that even though cheque was issued, only Rs.15,000/= was received, but, no defence evidence was adduced to prove such a contention. Even though advocate notice was issued before filing of complaint, no reply was received. Therefore, the courts below concurrently found that the revision petitioner was guilty. He was convicted and sentenced to under go simple imprisonment for three months. However, on the facts and circumstances of the case, I modify the sentence. Instead of simple imprisonment for three months, he is sentenced to undergo simple imprisonment for one week and to

pay a compensation of Rs.45,000/=. On realization of the compensation, Rs.40,000/= should be paid to the complainant. The compensation can be realised by resorting provisions under Sections 431 read with Section 421 of the Code of Criminal Procedure Code.

The revision petition is disposed of accordingly.

J.B.KOSHY
Judge

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